

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

NATIONAL INTERSTATE INSURANCE COMPANY,
an Ohio Corporation,

Plaintiff,

vs.

No. CIV-01-1446-MCA/WDS ACE

PENNY EMERSON, a New Mexico Resident,

Defendant,

and

NATIVE RESOURCE DEVELOPMENT, INC.,
a Navajo Nation Corporation, as a Real Party in
Interest; PENNY EMERSON,

Counter Plaintiffs,

vs.

NATIONAL INTERSTATE INSURANCE COMPANY,
an Ohio Corporation,

Counter Defendant.

DEFENDANT/COUNTER PLAINTIFFS' SUPPLEMENTAL
CONCLUSION OF LAW

COME NOW Defendant/Counter Plaintiffs, Penny Emerson and Native Resource Development, Inc., by and through their attorneys of record, and submit their ***Supplemental Conclusion of Law on the Counterclaim of Reformation of the Insurance Contract*** as follows:

CONCLUSIONS OF LAW

As a supplement to the Conclusions of Law No. 1-13 submitted on January 22, 2004, Defendant Counter Plaintiffs submit the following Conclusion of Law:

14. National Interstate Insurance Company's conduct in dealing with Mueller & Associates, David Krzyzanowski, and/or Penny Emerson, individually, or on behalf of Native Resource Development, was inequitable and supports reformation of the policy of insurance to reflect increased availability of Uninsured and Underinsured Motorist coverage.

Respectfully submitted,

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